Missouri Public Service Commission

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April 23, 2008

Re: FCC Dockets 05-337 & 96-45

To Whom It May Concern:

Please accept the attached Comments and attachments of the Missouri Public Service Commission in Docket s 05-337 and 96-45. This Comment was inadvertently filed only in Docket 96-45, without appropriate attachments. Please accept my apologies for any confusion this oversight may have caused.

Thank you,

/s/ Sarah Kliethermes
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.

In the Matter of	)	
	)	
High-Cost Universal Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

COMMENTS OF THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

The Public Service Commission of the State of Missouri ("MoPSC") offers the following comments in response to the Federal Communication Commission's ("Commission") Notice of Proposed Rulemaking (NPRM) regarding the November 20, 2007 recommendation of the Federal-State Joint Board on Universal Service (Joint Board). The Commission is seeking comment on the Joint Board's recommendation regarding comprehensive reform of high-cost universal service support.

I. Executive Summary

The MoPSC's primary criticism of the Joint Board recommendation is that it does not comprehensively reform the high-cost universal service support program. The Joint Board's reform proposals are solely focused on reforming high-cost support for competitive ETCs. The Joint Board fails to propose any significant reform measures for high-cost support currently provided to incumbent LECs who presently receive approximately three-fourths of current high-cost support disbursements. Comprehensive reform is needed for the entire high-cost fund before serious consideration is given to creating two additional funds, namely the proposed Broadband Fund and the proposed Mobility Fund.

The Joint Board's proposal to establish an overall cap on high-cost funding may be acceptable if the desire is to simply stop high-cost support growth; however no analysis has been performed to determine if current funding appropriately promotes the principles of universal service. A competitive ETC should be required to identify its own forward-looking costs in determining high-cost support rather than rely on the identical support rule.

Allocation of funds among states should not be based on maintaining current funding levels but rather based on the necessity and promotion of the principles of universal service as identified in the Act. A carrier no longer needing high-cost support should have its high-cost support gradually reduced over a three year time period. The MoPSC supports efforts to avoid duplicate support for networks and also target high-cost support on a more granular basis. If state commissions are expected to help identify unserved areas and award funding then the Commission will need to delegate authority to state commissions.

If the Commission expands the definition of supported services to include broadband and mobility services then minimum requirements should be established for the provisioning of broadband and wireless services. An updated definition of broadband or high speed service should be a service that has a carrying capacity of at least 1 Megabit per second in one direction rather than the current definition of 200 kilobits per second which has been in place for many years. Lifeline subscribers should not receive separate discounts for voice services, broadband services and wireless services, respectively.

II. Overarching Comments

The MoPSC supports comprehensive efforts to reform and stabilize the high-cost portion of the federal Universal Service Fund (USF). Any efforts to achieve sustainability must also continue to meet the goals of the Telecommunications Act of 1996 which offers the following principles for the preservation and advancement of universal service[1]:

A. Quality services at just, reasonable, and affordable rates;

B. Access to advanced telecommunications and information services;

C. Access to telecommunications and information services in all regions of the Nation at rates that are reasonably comparable to rates charged for similar services in urban areas;

D. Equitable and nondiscriminatory contributions by all providers of telecommunications services;

E. Specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service;

In carrying out these universal service principles the Commission should incorporate the following concepts in reforming the USF:

(1) High-cost support should be provided to the least number of carriers and areas necessary to achieve universal service. In achieving this concept, the

[1] 47 U.S.C. 254(b)

Commission should consider distributing support in areas smaller than a study area or wire center.

(2) High-cost support should only be provided when universal service principles would not be met without universal service funding. Stated differently, high cost support should cease or simply not be provided if the principles of universal service can still be achieved without such funding.

(3) High-cost support should be based on a carrier's forward looking costs. Carriers should not expect to receive high cost support based on already incurred embedded costs. A forward looking cost method will promote efficient use of scarce and valuable universal service monies.

(4) Any carrier receiving high-cost support should be required to recover a reasonable portion of its costs from its customers. For instance, carriers should be required to increase basic local rates to a "benchmark" rate in order to receive high cost support. This requirement will lessen the need for and amount of what are portrayed as "governmentally approved or authorized" subsidies (such as the subscriber line charge or USF surcharge).

(5) In order to be truly comprehensive, USF reform should involve all aspects of high cost support, including support currently provided to both incumbent local exchange carriers (ILECs) and competitive ETCs. USF reform should not attempt to preserve existing revenue levels for a particular carrier, technology or study area.

(6) USF reform should include a more defined annual certification process with greater oversight and accountability.

III. Joint Board Recommendation Issues

The Joint Board recommendation attempts to address reform issues facing the high-cost universal service support system. These issues are described below along with MoPSC comments to the Joint Board recommendations or, in some instances, lack of a recommendation by the Joint Board.

A. Scope of Reform

The Joint Board's Recommended Decision recommends the delivery of future high-cost universal service support through three different funds: Broadband Fund, Mobility Fund and Provider of Last Resort Fund. The Broadband Fund and Mobility Fund are intended to help disseminate broadband Internet services and wireless voice services, respectively, to unserved areas by providing grants for the construction of new facilities to serve unserved areas, enhance areas with substandard service and/or help subsidize existing service in uneconomic areas. Under the Joint Board's plan, states will help administer the Broadband and Mobility Funds.

The Joint Board classifies the Provider of Last Resort Fund to be the sum of the existing incumbent local exchange company (LEC) universal service support mechanisms. At this time the Joint Board offers no significant changes to the support mechanisms in the Provider of Last Resort Fund but rather simply recommends the Commission establish a process and timetable for such a review.

MoPSC comments:

The Joint Board recommendation is not comprehensive because it fails to make any significant revisions to high cost support funding currently provided to incumbent LECs. High-cost support for 2007 is estimated to total $4.47 billion where approximately $1 billion is provided to competitive ETCs and $3.47 billion to incumbent LECs. Curiously, the Joint Board recommendation fails to make any reform measures to incumbent high-cost support but instead solely focuses upon competitive ETC high-cost support funding. The Joint Board's rationale for ignoring reform measures for incumbent LEC high cost support appears to be an observation that high-cost support for incumbent LECs has been flat or has even declined since 2003. The Joint Board's narrow focus on high-cost support for competitive ETCs appears to be based on the fact competitive ETC funding has grown by an annual growth rate of over 100 percent since 2001. In contrast to the Joint Board's recommendation, the MoPSC asserts all aspects of high-cost support need to be reviewed. The burden has become quite high for all consumers who ultimately pay universal service assessments. Confidence needs to be restored that high-cost support is truly meeting the principles of universal service contained in the Act.

The Commission should first ensure high-cost support for incumbent LECs is appropriately achieving the universal service principles of the Act. At a minimum the Commission should target high-cost support to only those areas needing funding by directing support to specific wire centers or some other smaller area measure. The Commission should also base support on forward looking costs rather than embedded costs to reflect funding for only the most efficient network. In addition, universal service support should be contingent on a carrier recovering a reasonable portion of its costs from its own customers. The Commission should also develop greater oversight procedures and accountability by developing a more defined annual certification process.

Overall, the MoPSC recommends the existing fund be reformed in its entirety before altering the current definition of essential services supported by high-cost funding and creating two additional new funds. The creation of a Broadband Fund may simply expand the number of carriers receiving high-cost support for a specific area. For example, some carriers are already using existing high-cost support to deploy both voice and broadband services. In such situations, the Provider of Last Resort Fund can be considered to be currently funding both voice and broadband services. Unless high-cost support is specifically allocated between voice and broadband services, a new and separate broadband fund may simply provide funding for another carrier to serve the same area as the incumbent receiving high-cost support used to provide broadband to an area. The Commission needs to ensure high-cost support is only provided to the least number of carriers and areas necessary to promote the principles of universal service identified in the Act.

A Broadband Fund and a Mobility Fund have the potential to better target funding than the current high-cost funding mechanism in bringing broadband and wireless technology to unserved areas. If the Commission creates a Broadband Fund and a Mobility Fund, geographic areas will need to be carefully screened to make certain such technologies are unavailable and funding is truly needed in order to bring broadband and/or wireless services to the area.

B. Funding Levels, Caps and Transition

The Joint Board recommends an overall cap on high-cost funding at $4.5 billion for all three funds. The Joint Board recommends the five high-cost support mechanisms currently applicable to incumbent LECs be separately capped at their 2007 levels. According to the Joint Board, the recommendation to eliminate the identical support rule, if approved, will generate savings. This savings, or a portion of it, will be used to fund the Broadband and Mobility Funds. The Joint Board estimates funding levels of $300 million per year for the Broadband Fund and approximately $1.0 billion per year for the Mobility Fund. The Joint Board recommends a transition period for reducing the existing funding mechanisms and establishing the Broadband and Mobility funds. No timeline is recommended; however, the Joint Board seeks comment on whether a five-year transition period is appropriate.

<u>MoPSC comments</u>:

The establishment of an overall cap may be appropriate if the desire is to simply stop the overall growth of high-cost support. Unfortunately, there has been no analysis performed on whether current high-cost support funding is appropriately promoting the principles of universal service as identified by the Act. In this respect the overall level of the $4.5 billion funding cap is suspect. The Joint Board's recommendation assumes existing high-cost support levels for incumbent LECs are appropriate, and assumes all components of the high-cost fund should be maintained for incumbent LECs (i.e., Interstate Access Support, Interstate Common Line Support, Local Switching Support, etc.). As previously stated in these comments, before completing any reform, the Commission must first evaluate whether existing incumbent LEC high-cost support is efficiently meeting the universal service principles of the Act.

The Joint Board recommendation fails to explain the appropriateness of the anticipated funding levels for the Broadband and Mobility Funds. Funding levels for the Broadband and Mobility Funds appear to be based solely on the amount of savings projected from eliminating the identical support rule. It is uncertain whether the projected funding levels for the Broadband and Mobility Funds will be adequate to promote broadband or wireless service in unserved areas.

C. Competitive ETC Reform

The Joint Board recommends the elimination of the identical support rule. In general the Joint Board believes it is no longer in the public interest to use federal universal service support to subsidize competition and build duplicate networks in high-cost areas. In addition, the Joint Board claims the three-fund approach will eliminate duplication of support by providing support to only one wireline, one wireless and one broadband provider in any given area.

MoPSC comments:

The MoPSC supports the elimination of the identical support rule as described in its comments in the separate NPRM[2]. While the elimination of the identical support rule will explicitly eliminate duplication of support, duplication could still be implicit if carriers are able to continue to deploy broadband under existing mechanisms. Therefore, the MoPSC disagrees with the Joint Board's assertion that the three-fund approach will eliminate duplication of support for reasons previously stated under the Scope of Reform discussion in these comments.

A competitive ETC should be required to identify its own forward-looking costs to provide service in a supported area. In addition a competitive ETC, as well as any ETC, should be required to justify high-cost support by demonstrating that the principles of universal service will only be met if high-cost support is provided.

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[2] Comments of the Public Service Commission of the State of Missouri, *In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service,* WC Docket No. 05-337, CC Docket No. 96-45, April 2008.

High-cost disbursements based on forward-looking costs will more closely approximate a competitive market. Such rationale is supported by the United States Court of Appeals and the Commission. For example the United States Court of Appeals, when reviewing the Commission's directive in the *First Report and Order* found:

> [F]orward-looking costs have been recognized as promoting a competitive environment which is one of the stated purposes of the Act. The Seventh Circuit, for example explained, "[I]t is current and anticipated cost, rather than historical cost that is relevant to business decisions to enter markets….historical costs associated with the plant already in place are essentially irrelevant to this decision since those costs are 'sunk' and unavoidable and are unaffected by the new production decision." <u>MCI Communications v. American Tel. & Tel. Co</u>., 708 F.2d 1081, 1116-17 (7th Cir. 1983), <u>cert. denied</u>, 464 U.S. 891 (1983). Here, the FCC's use of a forward looking cost methodology was reasonable. The FCC sought comments on the use of forward-looking costs and concluded that forward-looking costs would best ensure efficient investment decisions and competitive entry. See First Report and Order ¶ 705[3]

Further, in its NPRM on Total Element Long Run Incremental Cost, the Commission stated:

> Forward-Looking Cost. A forward-looking costing methodology considers what it would cost today to build and operate an efficient network (or to expand an existing network) that can provide the same services as the incumbent's existing network….Assuming that the modeling method is accurate, a forward-looking cost approach more closely approximates the costs that would exist in a competitive market than does an historical cost approach by revealing potential efficiencies that might not otherwise be apparent. (footnotes omitted)[4]

D. LEC Reform and the Provider of Last Resort Fund

The Joint Board offers no significant changes to incumbent LEC funding. Funding will continue to be based on a provider's embedded statewide average costs.

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[3] Iowa Utilities Board, et al, v. FCC, 219 F.3d 744 (8th Cir. 2000).

[4] *Notice of Proposed Rulemaking*, In the Matter of Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers. WC Docket No. 03-173. September 10, 2003.

MoPSC comments:

The MoPSC supports efforts to comprehensively reform the universal service program; however, as previously pointed out in these comments the Joint Board recommendation has failed to make any significant recommendations to high-cost universal service support for incumbent LECs. The Commission first needs to ensure high-cost support currently provided to incumbent LECs is appropriate in meeting the universal service principles of the Act. In addition, the non-regulated revenues a carrier receives for services provided by the carrier over the same facilities used for supported voice services (i.e., broadband, video) should be added to the equation for determining support. Finally, the carrier's customers must help pay for the costs of service by establishing minimum benchmark rates.

Once funding needs are determined, the MoPSC supports efforts to target high-cost support on a more granular basis. High-cost support should be directed to areas needing support and should not be focused on companies receiving support. In other words, support should be targeted to high cost ***areas***, not high-cost ***companies***.

E. Partnership with States

The Joint Board recommends strengthening the state-federal partnership by using states to help identify unserved areas and award funding to carriers using formal Commission rules and guidelines. The Joint Board also recommends the Commission adopt policies encouraging states to provide matching funds for the Broadband and Mobility Funds. For instance additional funding from the federal fund could be provided if a state provides a minimum percentage of matching funds.

MoPSC Comments:

The Joint Board's reference to "states" is unclear as to whether the reference refers to a state agency such as a state utility commission or some other state agency which will be used to identify unserved areas and to award funding. If state commissions identify unserved areas, then the Commission will need to delegate authority to the state commissions. Two MoPSC Commissioners have recently tried to identify broadband deployment and penetration in Missouri. In conducting such a study, many carriers were less than forthcoming with broadband data citing a lack of jurisdiction. Although the MoPSC has never attempted to conduct a similar study for wireless service penetration, the MoPSC anticipates a similar reaction from wireless providers. The MoPSC's authority over wireless providers is restricted to the limited delegated authority obtained by designating certain wireless carriers as ETCs.

If states are expected to provide matching funds for high-cost support then state laws may need to change. For example statutory changes may be necessary in order to clearly give the state the authority to collect, retain and distribute matching state funds to qualified companies.

F. Avoiding Duplicate Support

No specific recommendations are contained in this portion of the Joint Recommendation other than the Joint Board notes the importance of avoiding providing duplicate support for networks.

MoPSC Comments:

The MoPSC agrees with the concept of avoiding duplicate support for networks; however, such a concept may be complicated to maintain even with a multiple high-cost funding approach. Currently high-cost support is being provided to carriers who are essentially rebuilding or upgrading their networks to provide better voice services and to provide broadband service. As pointed out in MoPSC comments filed on May, 31, 2007 Alma Communications Company, d/b/a Alma Telephone Company and Northeast Missouri Rural Telephone Company are examples of two incumbent LECs using current high-cost support to provide both voice and broadband services. In such situations, the current high-cost funding mechanism essentially has one fund that offers support which allows carriers to provide multiple services. If a Broadband Fund is established then the Commission will need to make adjustments in order to avoid implicit duplicate support for networks. For example a carrier may need to allocate costs between voice and broadband services whereby the receipt of high-cost support is separately based on voice versus broadband costs. Such an allocation may result in a carrier receiving support from the Provider of Last Resort Fund for voice services and the Broadband Fund for broadband services.

G. Supported Services and Carrier Eligibility

The Joint Board recommends the Commission revise the current definition of supported services that are supported by federal universal support mechanisms to include broadband Internet service and mobility service. The Joint Board does not intend for a carrier to offer all supported services (voice, mobility and broadband) in order to receive high-cost support.

<u>MoPSC Comments:</u>

If the Commission revises the current definition of supported services to include broadband and mobility services then maintaining the existing requirements for the provisioning of voice services does not seem appropriate for the provisioning of wireless or broadband services. The Commission should establish minimum requirements for carriers receiving high-cost support for the provisioning of broadband and wireless services. A carrier's ability to meet such minimum requirements should be addressed in the eligible telecommunications carrier designation process. Separate designations should be established for carriers applying for high-cost support in the provisioning voice, broadband and wireless services. Carriers receiving high-cost support for the provisioning of broadband or wireless services should be required to continue to meet the minimum requirements for the provisioning of those services through an annual certification process similar to the process currently used for recipients of high-cost support.

G. Issues for Further Comment

The Joint Board recommends the Commission seek further comment on several issues.

a. Allocating Funds Among States

The Joint Board recommends the Commission seek comment on the most effective mechanism to determine the appropriate allocation of funds among the states.

<u>MoPSC Comments:</u>

Allocation of funds among states should not be based on maintaining current funding levels but rather based on the necessity and promotion of the principles of universal service as identified in the Act.

b. Identifying Unserved Areas

The Joint Board recommends the Commission seek comment on the most effective method to determine unserved areas for both broadband and wireless coverage.

MoPSC Comments:

Identifying unserved areas will depend on the Commission's definition of the term "unserved". In describing the Mobility Fund, the Joint Board indicates an unserved area would mean an area with a significant population density but without wireless service. Identifying an unserved area may be difficult. On September, 18, 2007, Commissioner Robert M. Clayton III and former Commissioner Steve Gaw released a report on Missouri broadband availability.[5] As noted in this report some large LECs were initially reluctant to respond to the survey and some competitive LECs did not respond. Recommendation No. 1 of this report is that the MoPSC or a comparable state agency must be specifically empowered to collect data on broadband deployment. If a state commission is to determine unserved areas for either broadband or wireless services then the Commission must clearly delegate authority to the state commission to collect data and identify such areas.

c. Defining Broadband

The Joint Board recommends the Commission seek comment on the appropriate level of broadband service for which universal service support should be eligible. The current Commission definition of broadband or high speed data transmission is at least 200 kilobits per second in one direction.

MoPSC Comments:

The MoPSC acknowledges the Commission uses the terms "broadband service" and "high-speed service" interchangeably to describe services that deliver an information

[5] *Commissioners' Report on Missouri Broadband Availability* by Commissioner Robert M. Clayton III and Commissioner Steve Gaw of the Missouri Public Service Commission, September 18, 2007. See Broadband Report at http://psc.mo.gov/the-commissioners/robert-m-clayton-iii

carrying capacity in excess of 200 kilobits per second in one direction. The Commission uses the term "advanced services" as a subset of broadband or high-speed services that deliver an information carrying capacity of at least 200 kilobits per second in both directions. The MoPSC recommends the Commission, at a minimum, define broadband or high speed data transmission as 1 Megabit per second in one direction. The current standard of 200 kilobits per second represents a transmission speed of 200,000 bits of data per second whereas one megabit represents 1,000 kilobits. A Missouri Rural High-Speed Internet Access Task Force Preliminary Report released February 1, 2008 noted, "… many of those testifying and participating in task force proceedings, agree that 1 Megabit currently represents the generally accepted definition of broadband, but may need to be increased in the future…."[6] This Task Force also noted that 512 kbps is the minimum speed required to use the most basic of broadband-enabled applications.

Regardless of the information carrying capacity the Commission uses to define broadband services, the Commission should base broadband high-cost support on the transfer speed at which the consumer actually is able to transmit and receive information. Many times transmission speeds are determined by the theoretical fastest transfer speed available to the consumer; however, in reality transfer speeds are affected by such things as the customer's location from the central office or technologically equivalent site, terrain, weather, or the number of customers accessing the broadband pipe at the same time. The Commission should strive to only provide high-cost support for a carrier to provide broadband services whereby all of the carrier's broadband customers will be assured of a minimum transfer speed.

[6] *Rural High-Speed Internet Access Task Force Preliminary Report*, February 1, 2008. See http://www.ltgov.mo.gov/ruralhsi/index.htm

d. Impacts on Lifeline/Link-Up

The Joint Board recommends the Commission seek comment on whether Lifeline/Link-Up customers may be negatively affected by the three fund approach.

MoPSC Comments:

The MoPSC is not aware of ways in which Lifeline/Link-Up customers may be negatively affected by the three fund approach; however, the Commission should ensure limitations on ETC designations for high cost support do not prevent carriers from providing Lifeline/Linkup. A streamlined process for carriers only interested in providing Lifeline/Linkup should be included in any fund reform, recognizing the many requirements applicable to ETC designation are largely related to high-cost support. In addition, Lifeline discounts should be limited to one discount per household. In other words the Commission should not attempt to establish separate discounts for voice services, broadband services and wireless services, respectively whereby a customer is able to combine Lifeline discounts.

e. Implementation, Transition and Review

The Joint Board recommends the Commission seek comment on how best to transition support from current areas that no longer need support to areas unserved by either broadband or mobility providers. The Joint Board believes any transition period should be subject to review after three or five years; however, the Joint Board seeks comment on what issues should be reviewed to evaluate the effectiveness of fund support.

MoPSC Comments:

A carrier no longer needing support should have its high-cost support gradually reduced or adjusted over a three year time period. In some situations such a transition may not alter a carrier's overall high-cost support, but simply shift high-cost support to smaller areas where it is needed most.

f. Compliance with Federal Law

In paragraph 3 of the Recommended Decision attached to the instant NPRM (2007 RD), the Joint Board "further recommend[ed] making a formal change to the definition of services supported by Section 254 funding." This recommendation was made in the context of proposing to create separate mobility and broadband funds. In paragraph 76 of the 2007 RD, the Joint Board further "recommends that the Commission seek comment on any aspects of [the] three funds approach which would require reconciliation with federal law."

MoPSC Comments:

This is not the first time the Joint Board has considered the issue of whether to include broadband in the list of services to be supported by universal service funding. The Joint Board, in its July 2002 Recommended Decision (2002 RD), analyzed whether the current list of supported services should be expanded to include "advanced" or "high-speed" services.

The question of whether a three-fund approach comports with federal law requires an examination of 47 USCA § 254. In its 2002 RD, the Joint Board noted Section 254(c)(1) states that,

> '[u]niversal service is an evolving level of telecommunications services' and that the Commission shall 'tak[e] into account advances in

> telecommunications and information technologies and services.' Moreover, the 1996 Act's legislative history shows that the Commission has 'specific authority to alter the definition from time to time' in order to 'take into account advances in telecommunications and information technology.'(footnotes omitted)

The Joint Board recognized that Internet connectivity is commonplace and that high-speed or advanced services can be extremely beneficial to consumers, but determined that high-speed and advanced services did not meet the criteria of section 254(c).[7]

In the 2002 RD, the Joint Board observed that the Commission had tentatively concluded that wireline broadband Internet access service is an "information service" and that the transmission component of that service is "telecommunications". As such, "broadband Internet access services could not be included within the definition of supported services, because section 254(c) limits the definition of supported services to telecommunications services." The Joint Board also noted that funding broadband might violate the principle of competitive neutrality since many of the providers do not provide the other "core" telecommunications services that must be supported as required by section 254(c).[8]

There is little doubt that broadband services are presently being deployed in public telecommunications networks by telecommunications carriers and that those

[7] Essential to education, public health, or public safety; Subscribed to by a substantial majority of residential consumers; Being deployed by telecommunications carriers in public telecommunications networks; and consistent with the public interest, convenience and necessity (four-pronged test).

[8] The Commission defined the "core" services that will be supported by universal service as the following services or functionalities: Single-part service; Voice grade access to the public switched network; DTMF signaling or its functional equivalent; Access to emergency services; Access to operator services; Access to interexchange services; Access to directory assistance; and Toll limitation (subsequently modified to include toll blocking).

services are in some instances presently being supported by the Universal Service fund.[9] Further, since the universal service mechanism has been in use for some time in the support of wireless and high-cost landline projects an analysis of whether a three-fund configuration comports with federal law largely relies on the propriety of supporting broadband services, whether separately or as a component of the current fund structure. The 2002 RD included a discussion of the extensive analysis applied to this question, and the Joint Board ultimately concluded, “that no new service satisfies the statutory criteria contained in section 254(c) of the Communications Act of 1934, as amended (“Act”), and that the public interest would not be served by expanding the scope of universal service at this time.”

In the 2007 RD, the Joint Board discusses the four pronged test and concludes that broadband Internet service satisfies the statutory criteria for inclusion; however, there is no analysis as to whether broadband service meets the definition of a telecommunications service; whether funding broadband might violate the principle of competitive neutrality and whether broadband providers offer the “core” supported telecommunications services as required by section 254(c). In order to reconcile the three funds approach with federal law, the Commission must first reconcile the 2007 RD with the 2002 RD by addressing these requirements.

[9] Joint Board rec pg 23, fn 55

Respectfully submitted,

_/s/ John Van_Eschen____________

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
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	)	WC Docket No. 05-337
High-Cost Universal Support	)	
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Federal-State Joint Board on Universal Service	)	
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COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

The Public Service Commission of the State of Missouri ("MoPSC") offers the following comments in response to the Federal Communication Commission's ("Commission") Public Notice seeking comment on a Notice of Proposed Rulemaking (NPRM) to consider rules governing the amount of high-cost universal support provided to competitive eligible telecommunications carriers (ETCs). The Commission seeks comment on the tentative conclusion to eliminate the current "identical support" rule (aka "equal support rule") which currently provides competitive ETCs (CETCs) with the same per-line high-cost support amounts that incumbent local exchange carriers (ILECs) receive. The Commission also seeks comment on methodologies for determining a CETC's relevant costs for universal service support purposes, and other matters related to how the support should be calculated, including the appropriate reporting obligations.

I. **Executive Summary**

The MoPSC identifies some basic concepts for reforming the universal service fund. In response to this specific NPRM, the MoPSC supports eliminating the identical support rule and requiring CETCs to file cost data. The MoPSC recommends the Commission reform the existing process for determining costs before attempting to apply or modify such a process to accommodate CETCs. Forward-looking costs should be used in determining cost support for all carriers. A CETC (indeed, all ETCs) should be required to justify the receipt of high-cost support by demonstrating that investment or actions funded by the support (1) achieve the principles of universal service; and (2) would only occur through the receipt of high-cost support. CETCs should not receive Interstate Access Support, Interstate Common Line Support or Local Switching Support. A more defined annual certification process should be developed and required.

II. **Overarching Comments**

The MoPSC supports comprehensive efforts to reform and stabilize the high-cost portion of the federal Universal Service Fund (USF). Any efforts to achieve sustainability must also continue to meet the goals of the Telecommunications Act of 1996 which offers the following principles for the preservation and advancement of universal service[1]:

A. Quality services at just, reasonable, and affordable rates;

B. Access to advanced telecommunications and information services;

[1] 47 U.S.C. 254(b)

C. Access to telecommunications and information services in all regions of the Nation at rates that are reasonably comparable to rates charged for similar services in urban areas;

D. Equitable and nondiscriminatory contributions by all providers of telecommunications services;

E. Specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service;

In carrying out these universal service principles the Commission should incorporate the following concepts in reforming the USF:

(1) High-cost support should be provided to the least number of carriers and areas necessary to achieve universal service. In achieving this concept, the Commission should consider distributing support in areas smaller than a study area or wire center.

(2) High-cost support should only be provided when universal service principles would not be met without universal service funding. Stated differently, high cost support should cease or simply not be provided if the principles of universal service can still be achieved without such funding.

(3) High-cost support should be based on a carrier's forward looking costs. Carriers should not expect to receive high cost support based on already incurred embedded costs. A forward looking cost method will promote efficient use of scarce and valuable universal service monies.

(4) Any carrier receiving high-cost support should be required to recover a reasonable portion of its costs from its customers. For instance, carriers

should be required to increase basic local rates to a "benchmark" rate in order to receive high cost support. This requirement will lessen the need for and amount of what are portrayed as "governmentally approved or authorized" subsidies (such as the subscriber line charge or USF surcharge).

(5) In order to be truly comprehensive, USF reform should involve all aspects of high cost support, including support currently provided to both incumbent local exchange carriers (ILECs) and competitive ETCs. USF reform should not attempt to preserve existing revenue levels for a particular carrier, technology or study area.

(6) USF reform should include a more defined annual certification process with greater oversight and accountability.

III. <u>Issues Regarding the Identical Support Rule</u>

A. Elimination of the Identical Support Rule

The Commission tentatively concludes at paragraph 12, to eliminate the current identical support rule because it bears no relationship to the amount of money such competitive ETCs have invested in rural and other high-cost areas of the country. The MoPSC has previously filed comments supporting the elimination of the identical support rule[2]. In these previous comments, the MoPSC stated its support for a system where "[a]ny support received should be based on the recipient's cost to serve an area" (page 18, May 2007 comments).

[2] Comments of the Public Service Commission of the State of Missouri, *In the Matter of High Cost Universal Service Support Federal-State Joint Board on Universal Service.* WC Docket No. 05-337 and CC Docket No. 96-45 (filed May 31, 2007).

B. Submission of a Competitive ETC's Own Cost Support

The Commission tentatively concludes at paragraph 13, to require a competitive ETC to file cost data showing its own per-line costs of providing service in a supported service area in order to receive high-cost universal service support. The MoPSC agrees with this tentative conclusion. Whenever possible, a carrier's high cost support should be based on its own costs, preferably costs based on a forward-looking cost method.

The Commission seeks comment on whether or not basing support on a carrier's own costs will be competitively neutral. The Commission has defined the principle of competitive neutrality as:

> Competitive Neutrality -- Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.[3]

Basing each carrier's support on its own costs is competitively neutral. As long as all providers have an opportunity to present their own costs and to compete for the opportunity to provide "universal service", no company will be unfairly advantaged or disadvantaged. Without the identical support rule, government bodies designating carriers as ETCs will have the opportunity to weigh the proposed benefits caused by the support against the amount of high cost support directly related to the cost of the specific carriers. In this case, no carrier will reap a potential windfall or be caused financial distress based on support dependent on the costs of an unrelated carrier.

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[3] *Report & Order In the Matter of Federal-State Joint Board on Universal Service*, FCC 97-157, CC Docket 96-45, found online at http://www.fcc.gov/wcb/tapd/universal_service/fcc97157/sec03.html

The Commission, at paragraph 14, seeks comment on the type of high-cost support information a competitive ETC should be required to submit. The MoPSC recommends the Commission reform the existing process for determining cost before attempting to apply or modify an existing process to accommodate competitive ETCs. Forward-looking costs are preferred over historical, embedded or sunk costs because forward-looking costs more closely approximate a competitive market, leading to efficient outcomes and the best "bang for the buck" for high cost support.

The federal courts and the Commission have both expressed benefits of a forward looking cost methodology. The United States Court of Appeals, when reviewing the FCC's directive in the First Report and Order, found:

> [F]orward-looking costs have been recognized as promoting a competitive environment which is one of the stated purposes of the Act. The Seventh Circuit, for example, explained, "[I]t is current and anticipated cost, rather than historical cost that is relevant to business decisions to enter markets…historical costs associated with the plant already in place are essentially irrelevant to this decision since those costs are 'sunk' and unavoidable and are unaffected by the new production decision." MCI Communications v. American Tel. & Tel. Co., 708 F.2d 1081, 1116-17 (7th Cir. 1983), cert. denied, 464 U.S. 891 (1983). Here, the FCC's use of a forward looking cost methodology was reasonable. The FCC sought comments on the use of forward-looking costs and concluded that forward-looking costs would best ensure efficient investment decisions and competitive entry. See First Report and Order ¶ 705[4]

Further, in its NPRM on TELRIC, the Commission stated:

> Forward-Looking Cost. **A forward-looking costing methodology considers what it would cost today to build and operate an efficient network** (or to expand an existing network) that can provide the same services as the incumbent's existing network. The benefit of a forward-looking approach is that it gives potential competitors efficient price signals in deciding whether to invest in their own facilities or to lease the incumbent's facilities. That is, if construction of new facilities by a

[4] Iowa Utils. Bd., et al. v. FCC, 219 F.3d 744 (8th Cir. 2000).

> competitive LEC would cost less than leasing facilities at prices based on FLEC, the efficient result is for the new entrant to build its own facilities. Assuming that the modeling method is accurate, **a forward-looking cost approach more closely approximates the costs that would exist in a competitive market than does an historical cost approach by revealing potential efficiencies that might not otherwise be apparent.** (footnotes omitted, emphasis added.)[5]

Regardless of the type of high-cost support information a competitive ETC is required to submit, a competitive ETC (and, indeed, all ETCs) should be required to demonstrate investments would not have occurred without high-cost support. In order to receive ETC designation, the MoPSC requires the carrier to provide a statement as to how its proposed plans would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur[6]. The Commission should, at a minimum, require a similar attestation.

Furthermore, the Commission adopted a requirement in its March 2005 ETC Order[7], in Paragraph 21, that ETCs must "[submit] a formal network improvement plan that demonstrates how universal service funds will be used to improve coverage, signal strength, or capacity *that would not otherwise occur absent the receipt of high-cost support*." (emphasis added) Clearly, the Commission should strive to continue to make sure that high cost support only occurs when absolutely necessary to promote the principles of universal service.

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[5] Notice of Proposed Rulemaking, In the Matter of Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers. WC Docket No. 03-173. September 10, 2003.

[6] Missouri Public Service Commission rule 4 CSR 240-3.570(2)(A)3.G.

[7] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC-05-46. Rel. March 17, 2005.

The MoPSC concurs with the Commission's tentative conclusion, at paragraph 23, that competitive ETCs should not receive Interstate Access Support and Interstate Common Line Support. In a similar manner, competitive ETCs should also not receive Local Switching Support. The MoPSC agrees with the rationale contained in the NPRM that competitive ETCs are able to recover such revenues from end users with little or no regulatory oversight. The Commission should also evaluate whether such support should be maintained for incumbent LECS. Many carriers now offer broadband, video and other services that generate additional revenue streams for the carrier using facilities supported by USF. These revenue streams raise questions regarding the need to maintain Interstate Access Support, Interstate Common Line Support and Local Switching Support for any carrier and should be considered when evaluating a carrier's need for support.

C. Other Issues

The Commission, at paragraph 26, seeks comment on the sufficiency of the existing use certification with respect to competitive ETCs and specifically if these certifications provide sufficient protection against misuse of high-cost support by competitive ETCs. Current procedures are insufficient. Prior MoPSC comments have noted indictments and guilty pleas with respect to conspiracies to defraud the universal service fund[8]. Current procedures make it extremely difficult to uncover such conspiracies; therefore, the MoPSC recommends carriers be held accountable through strict oversight. A more defined annual certification process should be developed and

[8] See Comments of the Public Service Commission of the State of Missouri, WC Docket No. 05-195, In the Matter of Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, pages 5-7.

required. Certification processes should be standardized so that USAC, NECA, state commissions and/or the Commission review the same substantive information prior to releasing USF support. All entities involved in the certification process should be required to share information with each other upon request so that all may effectively evaluate the carrier for recertification.

Respectfully submitted,

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.

In the Matter of	)	
	)	
High-Cost Universal Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

COMMENTS OF THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

The Public Service Commission of the State of Missouri ("MoPSC") offers the following comments in response to the Federal Communication Commission's ("Commission") Public Notice seeking comment on a Notice of Proposed Rulemaking (NPRM) regarding reverse auctions. The Commission tentatively concludes reverse auctions offer several advantages over current high-cost support distribution mechanisms. Consequently the Commission seeks comment on certain issues related to using reverse auctions in determining the amount of high-cost universal service support provided to eligible telecommunications carriers (ETCs) serving rural high-cost areas.

I. Executive Summary

The MoPSC identifies some basic concepts for reforming the universal service fund. In general, the MoPSC has basic reservations about using reverse auctions to determine high-cost support because reverse auctions will probably only work well if multiple bidders are participating. Ironically, if multiple bidders desire to serve a specific area it is questionable if providing high-cost support is truly necessary to promote the principles of universal service identified in the Telecommunications Act of 1996 (Act).

If the Commission adopts reverse auctions in determining high-cost support the MoPSC offers the following comments in response to the NPRM's specific issues solicited for feedback. The MoPSC supports a requirement for a bidder to hold ETC designation prior to participating in a reverse auction. A reverse auction should award high-cost support to a single winner. High-cost support subsidies should be offered as a fixed payment for each geographic area rather than on a per line basis. Geographic "study" areas for reverse auctions should be based on the smallest possible area. Five years is an appropriate length of time between auctions.

II. <u>Overarching Comments</u>

The MoPSC supports comprehensive efforts to reform and stabilize the high-cost portion of the federal Universal Service Fund (USF). Any efforts to achieve sustainability must also continue to meet the goals of the Telecommunications Act of 1996 which offers the following principles for the preservation and advancement of universal service[1]:

A. Quality services at just, reasonable, and affordable rates;

B. Access to advanced telecommunications and information services;

C. Access to telecommunications and information services in all regions of the Nation at rates that are reasonably comparable to rates charged for similar services in urban areas;

[1] 47 U.S.C. 254(b)

D. Equitable and nondiscriminatory contributions by all providers of telecommunications services;

E. Specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service;

In carrying out these universal service principles the Commission should incorporate the following concepts in reforming the USF:

(1) High-cost support should be provided to the least number of carriers and areas necessary to achieve universal service. In achieving this concept, the Commission should consider distributing support in areas smaller than a study area or wire center.

(2) High-cost support should only be provided when universal service principles would not be met without universal service funding. Stated differently, high cost support should cease or simply not be provided if the principles of universal service can still be achieved without such funding.

(3) High-cost support should be based on a carrier's forward looking costs. Carriers should not expect to receive high cost support based on already incurred embedded costs. A forward looking cost method will promote efficient use of scarce and valuable universal service monies.

(4) Any carrier receiving high-cost support should be required to recover a reasonable portion of its costs from its customers. For instance, carriers should be required to increase basic local rates to a "benchmark" rate in order to receive high cost support. This requirement will lessen the need for and amount of what

are portrayed as "governmentally approved or authorized" subsidies (such as the subscriber line charge or USF surcharge).

(5) In order to be truly comprehensive, USF reform should involve all aspects of high cost support, including support currently provided to both incumbent local exchange carriers (ILECs) and competitive ETCs. USF reform should not attempt to preserve existing revenue levels for a particular carrier, technology or study area.

(6) USF reform should include a more defined annual certification process with greater oversight and accountability.

III. <u>Issues Regarding Reverse Auctions</u>

A. Advantages of Using Reverse Auctions

The Commission, at paragraph 10, seeks comment on the advantages of using a reverse auction mechanism to determine the amount of high-cost universal service support distributed to ETCs. The MoPSC has previously submitted comments expressing concerns with the reverse auction concept.[2] The MoPSC supports the Commission's efforts to stabilize and maintain the USF, but suggests a reverse auction process is not a reasonable solution to the problem. In a reverse auction, sellers compete for the right to provide a good or service. In this case, competing carriers would vie for the right to receive federal high-cost support to provide universal service applicable to the provision, maintenance and upgrade of facilities and services. Theoretically, reverse auctions should

[2] Comments of the Public Service Commission of the State of Missouri, *In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45, 2006 and May 31, 2007.

limit the size of the USF since only a fixed number of carriers would receive funding at any given time. Unfortunately, the logistics of managing such a fund are considerable.

According to the Commission, support would generally be determined by the lowest bid to serve an auctioned area but this concept is predicated on the need to have multiple bidders submit efficient bids for evaluation. Many of the unserved areas in the United States will only appeal to a single carrier, greatly diminishing the likelihood of ensuring the reverse auction as a viable solution.

B. Eligibility Requirements

The Commission, paragraph 12, tentatively concludes a bidder must hold an ETC designation covering the relevant geographic area prior to participating in an auction to determine high-cost support for that area. The MoPSC agrees with this conclusion for it ensures compliance with Section 254 (e), which requires a carrier to have ETC designation in order to receive federal universal service support. If a bidder is not required to have ETC designation at the time of submitting a bid then a carrier can be awarded the bid without ensuring all requirements for ETC status have been met. A post-hoc review could potentially result in having such an award taken away from a winning carrier (i.e., if a state commission or the FCC does not designate the winning bidder as an ETC). If potential bidders are not pre-designated as ETCs, it may also be difficult to compare non-price factors in determining a winning bidder.

Supported providers should be required to meet such things as quality of service obligations and carrier of last resort obligations and should be subject to enforcement actions and penalties for failure to meet those requirements. Most wireline carriers are currently subject to Commission or state commission oversight of quality of service issues. However, as evidenced by the 6,338 complaints registered against wireless carriers in the second quarter of 2007, service quality, billing and consumer protection issues remain a matter of high priority to consumers with respect to wireless carriers[3]. The auction selection should be technologically neutral, with any winner subject to the same standards as all other bidders for that area. All bidders should be designated as an ETC to make certain they are capable of living up to the required obligations. ETC status should be reviewed and renewed prior to each subsequent auction to allow reviewers to ensure the quality of the carriers' services meet established measures.

B. Single Winner versus Multiple Winners

The Commission, paragraph 14, tentatively concludes universal service support auctions should award high-cost support to a single winner. In prior comments to the Commission the MoPSC recommended that in order to promote competition within the bidding process while keeping the fund sustainable, the MoPSC maintains that only one recipient should receive support at any given time.[4] Likewise the MoPSC has previously submitted comments supporting the concept of limiting the number of carriers eligible to

[3] Summary of Top Complaint Subjects Processed by the FCC's Consumer & Governmental Affairs Bureau, Second Quarter-Calendar Year 2007. See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279478A1.pdf

[4] Comments of the Public Service Commission of the State of Missouri, WC Docket No. 05-337 and CC Docket No. 96-45, *In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service*, 2006, page 2.

receive support in a given area.[5] A single winner will minimize the size of the fund and still maintain the principles of universal service as identified by the Act.

C. Method of Distributing the Subsidy

The Commission, paragraph 18, seeks comment on the manner in which a subsidy should be computed and distributed. Specifically, subsidies could potentially be offered as a fixed payment for each geographic area, on the basis of the number of subscribers or households served, or on some combination of these methods.

The MoPSC has previously submitted comments to the Commission generally supporting the concept of using a single connection or a primary line to determine a carrier's high-cost support although the MoPSC recognized the logistic difficulties associated with such a concept.[6] The MoPSC maintains the Commission should try to move away from providing support on a per line basis. Providing high-cost support for multiple lines or connections potentially threatens the sustainability of the fund. Therefore, if the Commission intends to continue with some form of per line based subsidy then the MoPSC recommends the Commission provide the subsidy based on households rather than on a per line basis. Alternatively, and if only one carrier is selected to receive high-cost support for a specific area, it may be administratively easier to simply provide a subsidy in the form of an amortized fixed payment for the geographic area.

[5] Comments of the Public Service Commission of the State of Missouri, WC Docket No. 05-337 and CC Docket No. 96-45, *In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service*, May 31, 2007, page 18.

[6] Comments and Reply Comments of the Public Service Commission of the State of Missouri, CC Docket No. 96-45, *In the Matter of Federal-State Joint Board on Universal Service*, August and September 2004.

D. Geographic Areas

The Commission, paragraphs 19-22, seeks comment on the appropriate geographic areas for reverse auctions. The Commission, paragraph 21, tentatively concludes the wireline incumbent LEC's study area is the appropriate geographic area on which to base reverse auctions and that further disaggregation is appropriate only if the total support is not increased for the resulting areas, but is capped at the award amount for the original study area.

The MoPSC disagrees that the incumbent LEC's study area is the appropriate geographic area on which to base reverse auctions. This method of targeting support assumes support is currently being used efficiently and appropriately. Therefore, the MoPSC recommends the Commission strive to establish support based on the smallest possible area in order to target funding where it is needed to advance the principles of universal service. As previously pointed out in these comments, high-cost support should be provided to the least number of carriers and areas necessary to achieve the principles of universal service, including areas smaller than a study area or wire center. As the Commission notes in paragraph 21, a study area may include subsets of customers that are profitable. When these areas are no longer included in an area to be auctioned, a higher total subsidy may be required. Although a higher subsidy may be required for certain areas, by creating auction areas smaller than the existing study area, the Commission will direct support to where it is needed to meet universal service principles.

E. Universal Service Obligations

The Commission, paragraphs 23-24, seeks comment on the extent to define the universal service obligations of the winners of the auctions as well as how to ensure the universal availability of services under a reverse auction mechanism. The Commission, paragraph 27, also seeks comment on the extent states have adopted the Commission's requirements for ETC designation.

The MoPSC maintains any carrier receiving high-cost universal service support should be held accountable for fulfilling universal service obligations. Historically, with a few exceptions, incumbent LECs were the only high-cost support recipients with definitive obligations such as quality of service requirements and carrier of last resort obligations. If the Commission plans to use reverse auctions to award high-cost support, then the winning carrier should be required to meet such obligations, regardless of the technology used to provision service. Any carrier seeking high-cost support should be required to obtain ETC designation prior to submitting a bid for an area. Such a requirement helps screen potential bidders so that only carriers capable of providing quality service at affordable rates are allowed to bid. Despite the screening process, the Commission or a state commission should have the ability to reject any bid that does not meet the universal service principles of quality service at just, reasonable and affordable rates.

In paragraph 27, the Commission is seeking comment on the extent states have adopted the Commission's requirements for ETC designation. The MoPSC has adopted rules concerning ETC designation which became effective on June 30, 2006.[7] In general these rules adopt the Commission's requirements for ETC designation. The most notable differences between the ETC requirements established by the Commission versus the MoPSC are the following:

> MoPSC rule 4 CSR 240-3.570(2)(A)2: A competitive ETC applicant is required to submit a two-year plan identifying the intended use of the high-cost support including a demonstration that the support shall only be used for the provision, maintenance and upgrading of facilities and services for which the support is intended. In contrast the Commission requires a five year plan.
>
> MoPSC rule 4 CSR 240-3.570(4)(B): A competitive ETC is required by MoPSC rule to annually meet and discuss the ETC's two-year plan and any subsequent changes to the plan.
>
> MoPSC rule 4 CSR 240-3.570(2)(A)3.G: A competitive ETC is required to provide a statement as to how the proposed plan would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur.

F. Reserve Prices

The Commission, paragraphs 36 and 37, in anticipation that there may be few bidders in certain geographic areas seeks comment on how to set a reserve price for an auction and concludes reserve prices could be based, at least initially, on current levels of high-cost support. The Commission, paragraph 37, seeks comment on how reserve prices based on current support should be determined if the geographic area to be auctioned differs from the area for which support is currently calculated. The Commission, paragraph 40, tentative concludes after the initial auction the previous auction's winning

[7] See MoPSC rule 4 CSR 240-3.570.

bid could be used for establishing the reserve price rather than the incumbent LEC's forward-looking or embedded cost.

As the MoPSC previously stated in these comments, a major flaw of the reverse auction process is the ability to solicit a sufficient number of bidders to enable an efficient auction. Instead of setting a reserve price that may either discourage bidders from participating in the auction process or may guarantee too much support to a given area, the Commission should employ other means of USF reform. For instance, key to any USF reform is adequately defining the geographic area.

G. Auction Design

The Commission invites comments on the similarities and differences between auctions for spectrum versus reverse auctions for subsidies for high-cost support. The Commission, paragraphs 41, 44, and 46, specifically seeks feedback on whether the simultaneous multiple round (SMR) process used for spectrum auctions should be used for high-cost support auctions. The SMR process uses a number of bidding rounds where after each round closes, bid results are processed and made public. Bidding continues until a round occurs in which no new bids are submitted.

The MoPSC maintains the Commission should have only one round of sealed bids. The SMR process seems better suited to auctions whereby the overall price is bid up rather than down. The high-cost support fund is running rampant at $4.5 billion. In order to ensure the best use of the fund, the goal should be to achieve the most efficient use of the support. Assuming a sufficient number of bidders in a single round, sealed bid directed at only those areas where funds are truly needed should result in efficient bids.

Once again, however, the Commission or state commissions should have the ability to reject any bid that does not meet the universal service principles of the Act.

H. Frequency of Auctions

The Commission, paragraph 47, seeks comment on the appropriate length of time between auctions. The Commission notes ETC applicants must submit a five-year plan and therefore the Commission questions if five years is an appropriate length of time between auctions. Consistent with prior MoPSC comments, the MoPSC recommends five years is an appropriate length of time between auctions[8]. Such rationale is not based on the submission of a five-year plan but rather on the idea that a carrier must be assured that support will be provided for an extended period of time in order to ensure costs may be recovered. Few carriers will invest in an area if support is only guaranteed on a year-by-year basis. However, whether auctions occur after one year, five years or some other extended period, further complications arise when a new carrier replaces the supported carrier in an area. Does the supported carrier simply transfer its assets to the new winner, or is the new winner required to lease the facilities of the supported carrier or is the new carrier required to deploy an entirely new network? This is yet another example of the inherent problems with using a reverse auction process to determine the amount of high-cost support distributed to a carrier.

[8] Comments of the Public Service Commission of the State of Missouri, WC Docket No. 05-337 and CC Docket No. 96-45, *In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service*, May 31, 2007, page 12.

Respectfully submitted,

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